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COMMITTEE ON THE RIGHTS OF THE CHILD

First session

SUMMARY RECORD OF THE 5th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 2 October 1991, at 10 a.m.

Chairman: Mrs. BADRAN

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Adoption of the rules of procedure (continued)

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The meeting was called to order at 10.20 a.m.

ADOPTION OF THE RULES OF PROCEDURE (agenda item 4) (continued) (CRC/C/1991/L.1)

Rules 61 and 62

Rules 61 and 62 were adopted.

Rule 63

Mrs. BELEMBAOGO said that she would like to know what type of tasks the Committee might entrust to subsidiary bodies.

Mrs. SANTOS PAIS said that other treaty bodies had found it necessary to set up subsidiary bodies not only in connection with reports by States parties but also to provide information on relevant activities being undertaken by other organizations. She therefore considered that rule 63 should be kept general and flexible in order to cover needs as they arose and proposed that the words "set up such subcommittees and other ad hoc subsidiary bodies" should be replaced by the words "set up such subsidiary bodies".

Mr. HOUSHMAND (Representative of the Secretary-General) confirmed that other treaty bodies had established either permanent or ad hoc subsidiary bodies. As it stood, rule 63 seemed flexible enough to allow the Committee to set up subcommittees or other groups as necessary.

Mrs. SANTOS PAIS requested clarifications concerning the implications of the words "subject to the provisions of rule 26".

Mr. HOUSHMAND (Representative of the Secretary-General) said that the provisions of rule 26 would be applicable if the Committee decided, for example, to establish a permanent or pre-sessional working group which would involve financial implications requiring the General Assembly's approval.

Mr. HAMMARBERG said that the emerging work patterns seemed to indicate that there should be two regular sessions a year, with provision for special sessions as necessary. In view of the very heavy workload the Committee would have, the regular sessions would require careful preparations. That should be made clear from the outset in order to ensure awareness of the costs involved in the Committee's functioning and to avoid extra expenditure on an ad hoc basis.

Mr. HOUSHMAND (Representative of the Secretary-General), replying to a question raised by Mrs. EUFFMIQ, said that contingency funds existed for the purpose of unforeseen expenditures, but there were rules and regulations governing their use. Such funds could not be committed in advance and must be approved in the context of each situation as it arose.

With regard to rule 63, flexibility was required to allow the Committee to set up subsidiary bodies according to need.

Mrs. EUFEMIO said that rule 63 should be given further consideration in the light of rule 26.

Mrs. SANTOS PAIS suggested that the words "subject to the provisions of rule 26" in rule 63 might be replaced by the less categorical words "in the light of the provisions of rule 26".

Mr. KOLOSOV suggested that the words "whenever applicable" should be added after the words "rule 26" in order to make rule 63 more flexible.

It was so decided.

Mr. HAMMARBERG, referring to the comment by Mr. Houshmand, said he recognized that any additional expenditure was governed by strict rules. He therefore urged that the financial implications of the Committee's work patterns should be regarded as a whole so that a package proposal might be submitted. The possibility of other sources of funding should also be borne in mind and discussed by the Committee at a later stage.

Miss MASON urged that further consideration should be given to the implications of a financial package.

Mr. HOUSHMAND (Representative of the Secretary-General), replying to a question raised by Mrs. EUFEMIO, said it was implicit in rule 63, paragraph 2, that the rules of procedure of a subsidiary body must not conflict with those of the Committee, which would take precedence over any subsidiary body.

Mr. KOLOSOV suggested that the word "may" should be added before the word "adopt" in rule 63, paragraph 2.

It was so decided.

Rule 63, as amended, was adopted.

Rule 64

Mr. HAMMARBERG asked whether the report referred to in rule 64 would be a formality or raise major issues and how it would be used. A yearly rhythm might be easier than a two-year interval and the report might be combined with the Committee's reports to the outside world.

Mrs. SANTOS PAIS recalled that, at the informal meeting in May 1991, the members had recognized that the Committee should tell the world about its work. In addition to its biennial report, it might issue interim reports, for its own use and that of observers and other participants in its work.

The Committee might also try to find other ways of maintaining a link with the public, such as informal reports, so that it would not be operating in a closed circle. She therefore proposed that rule 64 should be amended to reflect those ideas.

Mr. HAMMARBERG said that a second reading of the rules of procedure might be necessary once problems had been identified.

Mr. HOUSHMAND (Representative of the Secretary-General) indicated that the rules of procedure were intended to facilitate the Committee's work, not to bind the Committee. Many of the issues that arose in the context of a committee's regular functioning were not reflected in its rules of procedure. The rules were meant as a minimum approach and would not prevent the Committee from using additional methods in its future work.

He also pointed out that the Committee's report to the General Assembly was more than a mere formality, since it represented a channel of communication with the Third Committee.

Mrs. SANTOS PAIS said that she understood Mr. Houshmand's reasoning. However, the rules of procedure would be the first document issued by the Committee. Dissemination of information to the public being one of the Committee's basic tasks, it would be appropriate to include the ideas she had mentioned.

The CHAIRMAN suggested that rule 64 might be amended to include the idea that the biennial report would not be the only one issued by the Committee.

Miss MASON said that she would prefer rule 64 to be left as it stood.

Mrs. EUFEMIO noted that the Committee would have an opportunity to review rule 64 on second reading.

Mr. KOLOSOV proposed that the beginning of rule 64 should be amended to read: "Without prejudice to any reporting activities of the Committee, it shall submit ...".

Mr. HOUSHMAND (Representative of the Secretary-General) said that the reports which were meant to publicize the Committee's work should not be confused with the Committee's biennial report to the General Assembly.

Mgr. BAMBAREN GASTELUMENDI proposed that rule 64 should indicate that the Committee would submit additional reports as appropriate.

Mr. HAMMARBERG said that the Committee should either adopt rule 64 as it stood and discuss the question of additional reports when it arose, perhaps adding a rule at that time, or amend rule 64 to provide for the possibility of additional reports. The matter might also be referred to the Rapporteur.

Mr. OLSSEN (UNICEF) said that there was great interest in the Committee's work. It would be unfortunate if the report to the General Assembly were to be the only official report available. There was a need for communication between the Committee and the rest of the world.

The CHAIRMAN suggested that the adoption of rule 64 should be deferred until the Rapporteur had been able to redraft it to reflect the discussion that had just taken place.

It was so decided.

Rule 65

Mrs. SANTOS PAIS suggested that rule 65 should be amended to reflect the contents of article 44, paragraph 2, of the Convention. In particular, members had agreed at the informal meeting in May 1991 that the factors and difficulties affecting the degree of fulfilment of the obligations under the Convention should be mentioned in the reports.

Mgr. BAMBAREN GASTELUMENDI said that he endorsed Mrs. Santos Pais' proposal. He also wondered whether reports should not reflect the national programmes of action adopted by States for the implementation of the commitments they had undertaken in the World Declaration on the Survival, Protection and Development of Children and the Plan of Action for Implementing the Declaration, adopted by the World Summit for Children in New York on 30 September 1990.

Mr. MOMBESHORA proposed that rule 65, paragraph 2 should indicate a date by which information must be supplied by States parties.

Mr. HOUSHMAND (Representative of the Secretary-General) explained that dates for the submission of reports were implicit in the date of the entry into force of the Convention for a particular State. Actual dates would be reflected in a communication sent to each State party. The Committee would also be preparing guidelines on the preparation of reports, so that rule 65, paragraph 1, had to refer only to article 44 of the Convention. It would not be a good idea to spell out the contents of reports in the rules of procedure.

Mr. HAMMARBERG said that it would be appropriate to discuss how and when the guidelines would be communicated to Governments. Mrs. Santos Pais had raised a valid point with regard to rule 65, paragraph 1. It would be misleading to refer to some parts of article 44 and not to others. Either the contents of paragraph 2 should be spelled out or paragraph 1 should be deleted and paragraph 2 amended by replacing the words "in accordance with paragraph 1 of this rule" by the words "in accordance with article 44 of the Convention". As to the Committee's approach to the World Summit for Children, he thought it would be wisest not to mention it at all.

Mr. MOMBESHORA noted that the goals of the World Summit touched on the Convention itself. The Summit should therefore be mentioned at least in passing.

Mgr. BAMBAREN GASTELUMENDI, replying to a question raised by the CHAIRMAN, said he proposed that a reference to the Plan of Action should be included in paragraph 2. He believed that such a reference was important because the Plan of Action provided assurances that a country would take

certain steps to implement the Convention. In the case of Peru, it had inspired the Government to draft a national Plan of Action which was to be incorporated in internal law.

Mr. HOUSHMAND (Representative of the Secretary-General) noted that rule 69 contained a reference to the submission of reports to the Committee by UNICEF. Those reports would undoubtedly cover the implementation of the Declaration and the Plan of Action, in which UNICEF was closely involved.

With regard to rule 65, paragraph 1, the Committee could reflect article 44 of the Convention more fully if it so wished. Rule 65, paragraph 2, made it unnecessary to refer to article 44 extensively, however, for it indicated that the Committee would prepare guidelines specifying the type of information it wished to receive. The reference to article 44, could therefore be shortened, as suggested by Mr. Hammarberg. The first two sentences of paragraph 1 might be combined to read: "The States parties shall, pursuant to article 44 of the Convention, submit to the Committee, through the Secretary-General, reports on the implementation of the Convention within two years after its entry into force for the State party concerned".

Mrs. EUFEMIO said she agreed with that proposal for the revision of paragraph 1. She also suggested that the words "and shall expect such reports within two years of the entry into force of the Convention for the State party concerned" should be added at the end of the paragraph.

Mrs. SANTOS PAIS endorsed the proposal by Mr. Houshmand for the revision of paragraph 1. That paragraph dealt with important concerns and, while she could go along with the idea that it should be shortened, she believed that the essential ingredients should be retained. Paragraph 2 should be left unchanged.

Mrs. EUFEMIO pointed out that the rules of procedure were intended for the Committee, not for States parties. To make that clear, she proposed that paragraph 1 should begin with the words "The Committee shall expect reports from States parties pursuant to article 44 of the Convention".

Mrs. SANTOS PAIS said that, if that proposal, was adopted, it might give the impression that the Committee was taking a passive approach to the submission of reports, and that was certainly not the case. When a State party ratified the Convention, it committed itself to the submission of reports. The Committee must do more than simply "expect" reports from States parties.

Mr. KOLOSOV said that the points raised by Mrs. Eufemio and by Mrs. Santos Pais had merits. One way of accommodating them might be to add the following words at the beginning of paragraph 1: "The Committee shall plan its work taking account of the fact that ...".

Mr. HOUSHMAND (Representative of the Secretary-General) said Mrs. Eufemio had been right to point out that the rules of procedure were intended for the Committee; the obligations of States parties, on the other hand, were set out in the Convention.

Miss MASON proposed the following compromise solution for the wording of rule 65. The first paragraph would read: "Pursuant to article 44 of the Convention, States parties shall submit reports through the Secretary-General to the Committee in order to provide the Committee with a comprehensive understanding of the State party's implementation of the Convention". A new paragraph 2 would read: "These reports shall be submitted within two years after the entry into force of the Convention for the State party concerned. Thereafter, the States parties shall submit subsequent reports every five years and such additional reports or information in the intervening period as the Committee may request". In the new paragraph 3 (former para. 2), the word "may" would be replaced by the word "shall".

Mrs. SANTOS PAIS said that she found that text to be an excellent compromise solution.

Mr. KOLOSOV agreed that the proposal was a logical one, but he feared that it went beyond the reporting obligations undertaken by States in article 44, paragraph 1, of the Convention. In new paragraph 3 (former para. 2), it was stated that the Committee would "indicate" the form and contents of the reports to be submitted. However, the Convention gave the Committee no authority to dictate the contents of reports; it could merely invite States parties to follow the guidelines it had drawn up.

Mr. HAMMARBERG said the Committee was becoming mired in drafting problems: the word "indicate", for example, was not as strong as Mr. Kolosov had suggested.

He proposed that a drafting group consisting of Mr. Kolosov, Miss Mason and Mrs. Santos Pais should be appointed to prepare a revised version of rule 65 for consideration at the Committee's next meeting.

It was so decided.

The meeting rose at 1 p.m.